

HOUSE BILL 334

By Brooks H

AN ACT to amend Tennessee Code Annotated, Title 67,
Chapter 6, Part 2, relative to taxation of retail sales
of food and food ingredients for human
consumption.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 67, Chapter 6, Part 2, is amended by
deleting Section 67-6-228 in its entirety and by substituting instead the following:

Section 67-6-228.

(a)

(1) Notwithstanding any provision of this part to the contrary,
except as otherwise provided in subdivision (a)(2), the retail sale of food
and food ingredients for human consumption shall be taxed at the
following percentage rate of the sales price of each single article of food
or food ingredient in the following fiscal years:

(A) Five and one-half percent (5.5%) during fiscal year
2007-2008;

(B) Five percent (5%) during fiscal year 2008-2009;

(C) Four and one-half percent (4.5%) during fiscal year
2009-2010;

(D) Four percent (4%) during fiscal year 2010-2011;

(E) Three and one-half percent (3.5%) during fiscal year
2011-2012;

(F) Three percent (3%) during fiscal year 2012-2013;

(G) Two and one-half percent (2.5%) during fiscal year
2013-2014;

- (H) Two percent (2%) during fiscal year 2014-2015;
- (I) One and one-half percent (1.5%) during fiscal year 2015-2016;
- (J) One percent (1%) during fiscal year 2016-2017;
- (K) One-half percent (0.5%) during fiscal year 2017-2018;
- and
- (L) Zero percent (0%) during fiscal year 2018-2019 and thereafter.

For the purposes of this subdivision, "fiscal year" means the period beginning July 1 and ending on June 30 of the following year.

(2) The retail sale of the following food and food ingredients shall be taxed at the rate of tax levied on the sale of tangible personal property at retail by the provisions of Section

67-6-202:

- (A) Candy;
- (B) Dietary supplements; and
- (C) Prepared food.

(3) For purposes of this section:

(A) "Candy" means a preparation of sugar, honey, or other natural or artificial sweeteners in combination with chocolate, fruits, nuts, or other ingredients or flavorings in the form of bars, drops, or pieces. Candy shall not include any preparation containing flour and shall require no refrigeration;

(B) "Dietary supplement" means any product, other than tobacco, intended to supplement the diet that:

(i) Contains one or more of the following dietary ingredients:

(a) A vitamin;

(b) A mineral;

(c) An herb or other botanical;

(d) An amino acid;

(e) A dietary substance for use by humans to supplement the diet by increasing the total dietary intake; or

(f) A concentrate, metabolite, constituent, extract, or combination of any ingredient described above; and

(ii) Is intended for ingestion in tablet, capsule, powder, softgel, gelcap, or liquid form, or if not intended for ingestion in such a form, is not represented as conventional food and is not represented for use as a sole item of a meal or of the diet; and

(iii) Is required to be labeled as a dietary supplement, identifiable by the "Supplement Facts" box found on the label and as required pursuant to 21 C.F.R. Section 101.36; and

(C) "Prepared food" means:

(i) Food sold in a heated state or heated by the seller; or

(ii) Two (2) or more food ingredients mixed or combined by the seller for sale as a single item; or

(iii) Food sold with eating utensils provided by the seller, including plates, knives, forks, spoons, glasses, cups, napkins, or straws. "Prepared food" does not include food that is only sliced, repackaged, or pasteurized.

(b) Except as otherwise provided in this section, "food and food ingredients" means substances, whether in liquid, concentrated, solid, frozen, dried, or dehydrated form, that are sold for ingestion or chewing by humans and are consumed for their taste or nutritional value.

(c) As used in this section, "food and food ingredients" does not include the following items which shall be taxed at the rate of the tax levied on the sale of tangible personal property at retail by the provisions of Section 67-6-202:

(1) Beer, wine or any other beverage, however designated, that contains alcohol and is regulated pursuant to title 57; or

(2) Cigarettes, cigars or any other product, however designated, that contains tobacco.

SECTION 2. This act shall take effect at 12:02 a.m. on July 1, 2007, the public welfare requiring it.